

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D34035
W/kmb

_____AD3d_____

Submitted - January 12, 2012

ANITA R. FLORIO, J.P.
CHERYL E. CHAMBERS
L. PRISCILLA HALL
ROBERT J. MILLER, JJ.

2011-04451

DECISION & ORDER

In the Matter of Bernard Harry, appellant,
v Sandy Harry, respondent.
(Proceeding No. 1)

In the Matter of Sandy Harry, respondent,
v Bernard Harry, appellant.
(Proceeding No. 2)

(Docket Nos. V-03034-09, V-06443-09)

Tennille M. Tatum-Evans, New York, N.Y., for appellant.

Cynthia Domingo Foraste, Brooklyn, N.Y., for respondent.

In related child custody proceedings pursuant to Family Court Act article 6, the father appeals from so much of an order of the Family Court, Kings County (Hepner, J.), dated April 14, 2011, as, after a hearing, denied his petition for sole custody of the subject child, and granted the mother's separate petition for sole custody of the subject child.

ORDERED that the order is affirmed insofar as appealed from, without costs or disbursements.

“The court’s paramount concern in any custody dispute is to determine, under the totality of the circumstances, what is in the best interests of the child” (*Matter of Julie v Wills*, 73 AD3d 777, 777; see *Eschbach v Eschbach*, 56 NY2d 167, 171; *Haggerty v Haggerty*, 78 AD3d 998, 999). “Because custody determinations depend to a great extent upon an assessment of the character

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and credibility of the parties and witnesses, deference is accorded to the trial court's findings, and such findings will not be disturbed unless they lack a sound and substantial basis in the record" (*Matter of Otero v Nieves*, 77 AD3d 756, 756-757; see *Haggerty v Haggerty*, 78 AD3d at 999; *Matter of Julie v Wills*, 73 AD3d at 777). Here, the Family Court's award of sole custody to the mother has a sound and substantial basis in the record and will not be disturbed (see *Matter of Peoples v Bideau*, 85 AD3d 798; *Matter of Cavallero v Pena*, 83 AD3d 1062, 1063).

FLORIO, J.P., CHAMBERS, HALL and MILLER, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court